

103D CONGRESS
1ST SESSION

H. R. 777

To amend the Internal Revenue Code of 1986 to provide for a maximum long-term capital gains rate of 15 percent and indexing the basis of certain capital assets.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 1993

Mr. KOLBE introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide for a maximum long-term capital gains rate of 15 percent and indexing the basis of certain capital assets.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “_____ of 1993”.

5 **SEC. 2. REDUCTION IN INDIVIDUAL CAPITAL GAINS RATE.**

6 (a) GENERAL RULE.—Subsection (h) of section 1 of
7 the Internal Revenue Code of 1986 (relating to maximum
8 capital gains rate) is amended to read as follows:

9 “(h) MAXIMUM CAPITAL GAINS RATE.—

1 “(1) IN GENERAL.—If a taxpayer has a net
2 capital gain for any taxable year, then the tax im-
3 posed by this section shall not exceed the sum of—

4 “(A) a tax computed at the rates and in
5 the same manner as if this subsection had not
6 been enacted on the taxable income reduced by
7 the net capital gain, plus

8 “(B) a tax equal to the sum of—

9 “(i) 7.5 percent of so much of the net
10 capital gain as does not exceed—

11 “(I) the maximum amount of
12 taxable income to which the 15-per-
13 cent rate applies under the table ap-
14 plicable to the taxpayer, reduced by

15 “(II) the taxable income to which
16 subparagraph (A) applies, plus

17 “(ii) 15 percent of the net capital gain
18 in excess of the net capital gain to which
19 clause (i) applies.

20 “(2) TRANSITIONAL RULE.—In the case of a
21 taxable year which begins before January 1, 1993,
22 and ends after December 31, 1992, the amount of
23 the net capital gain for purposes of paragraph (1)
24 shall not exceed the net capital gain determined by
25 only taking into account gains and losses properly

1 taken into account for the portion of the taxable
2 year after December 31, 1992.”

3 (b) TECHNICAL AMENDMENTS.—

4 (1) Paragraph (1) of section 170(e) of such
5 Code is amended by striking “the amount of gain”
6 in the material following subparagraph (B)(ii) and
7 inserting “¹³/₂₈ (¹⁹/₃₄ in the case of a corporation)
8 of the amount of gain”.

9 (2)(A) The second sentence of section
10 7518(g)(6)(A) of such Code is amended by striking
11 “28 percent (34 percent in the case of a corpora-
12 tion)” and inserting “15 percent”.

13 (B) The second sentence of section
14 607(h)(6)(A) of the Merchant Marine Act, 1936, is
15 amended by striking “28 percent (34 percent in the
16 case of a corporation)” and inserting “15 percent”.

17 **SEC. 3. REDUCTION IN CORPORATE CAPITAL GAINS RATE.**

18 (a) GENERAL RULE.—Section 1201 of the Internal
19 Revenue Code of 1986 (relating to alternative tax for cor-
20 porations) is amended by redesignating subsection (b) as
21 subsection (c), and by striking subsection (a) and inserting
22 the following:

23 “(a) GENERAL RULE.—If for any taxable year a cor-
24 poration has a net capital gain, then, in lieu of the tax
25 imposed by section 11, 511, or 831(a) (whichever applies),

1 there is hereby imposed a tax (if such tax is less than
2 the tax imposed by such section) which shall consist of
3 the sum of—

4 “(1) a tax computed on the taxable income re-
5 duced by the net capital gain, at the same rates and
6 in the same manner as if this subsection had not
7 been enacted, plus

8 “(2) a tax of 15 percent of the net capital gain.

9 “(b) TRANSITIONAL RULE.—In the case of a taxable
10 year which begins before January 1, 1993, and ends after
11 December 31, 1992, the amount of the net capital gain
12 for purposes of subsection (a) shall not exceed the net cap-
13 ital gain determined by only taking into account gains and
14 losses properly taken into account for the portion of the
15 taxable year after December 31, 1992.”

16 (b) TECHNICAL AMENDMENTS.—

17 (1) Clause (iii) of section 852(b)(3)(D) of such
18 Code is amended by striking “66 percent” and in-
19 serting “85 percent”.

20 (2) Paragraphs (1) and (2) of section 1445(e)
21 of such Code are each amended by striking “34 per-
22 cent” and inserting “15 percent”.

1 **SEC. 4. REDUCTION OF MINIMUM TAX RATE ON CAPITAL**
2 **GAINS.**

3 Subparagraph (A) of section 55(b)(1) of the Internal
4 Revenue Code of 1986 (relating to tentative minimum tax)
5 is amended to read as follows:

6 “(A) the sum of—

7 “(i) 15 percent of the lesser of—

8 “(I) the net capital gain (deter-
9 mined with the adjustments provided
10 in this part and (to the extent appli-
11 cable) the limitations of sections
12 1(h)(2) and 1201(b)), or

13 “(II) so much of the alternative
14 minimum taxable income for the tax-
15 able year as exceeds the exemption
16 amount, plus

17 “(ii) 20 percent (24 percent in the
18 case of a taxpayer other than a corpora-
19 tion) of the amount (if any) by which the
20 excess referred to in clause (i)(II) exceeds
21 the net capital gain (as so determined), re-
22 duced by”.

23 **SEC. 5. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF**
24 **DETERMINING GAIN OR LOSS.**

25 (a) IN GENERAL.—Part II of subchapter O of chap-
26 ter 1 of the Internal Revenue Code of 1986 (relating to

1 basic rules of general application) is amended by inserting
2 after section 1021 the following new section:

3 **“SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES**
4 **OF DETERMINING GAIN OR LOSS.**

5 “(a) GENERAL RULE.—

6 “(1) INDEXED BASIS SUBSTITUTED FOR AD-
7 JUSTED BASIS.—Except as provided in paragraph
8 (2), if an indexed asset which has been held for
9 more than 1 year is sold or otherwise disposed of,
10 for purposes of this title the indexed basis of the
11 asset shall be substituted for its adjusted basis.

12 “(2) EXCEPTION FOR DEPRECIATION, ETC.—
13 The deduction for depreciation, depletion, and amor-
14 tization shall be determined without regard to the
15 application of paragraph (1) to the taxpayer or any
16 other person.

17 “(b) INDEXED ASSET.—

18 “(1) IN GENERAL.—For purposes of this sec-
19 tion, the term ‘indexed asset’ means—

20 “(A) stock in a corporation, and

21 “(B) tangible property (or any interest
22 therein), which is a capital asset of property
23 used in the trade or business (as defined in sec-
24 tion 1231(b)).

1 “(2) CERTAIN PROPERTY EXCLUDED.—For
2 purposes of this section, the term ‘indexed asset’
3 does not include—

4 “(A) CREDITOR’S INTEREST.—Any interest
5 in property which is in the nature of a credi-
6 tor’s interest.

7 “(B) OPTIONS.—Any option or other right
8 to acquire an interest in property.

9 “(C) NET LEASE PROPERTY.—In the case
10 of a lessor, net lease property (within the mean-
11 ing of subsection (h)(1)).

12 “(D) CERTAIN PREFERRED STOCK.—Stock
13 which is fixed and preferred as to dividends and
14 does not participate in corporate growth to any
15 significant extent.

16 “(E) STOCK IN CERTAIN CORPORATIONS.—
17 Stock in—

18 “(i) an S corporation (within the
19 meaning of section 1361),

20 “(ii) a personal holding company (as
21 defined in section 542), and

22 “(iii) a foreign corporation.

23 “(3) EXCEPTION FOR STOCK IN FOREIGN COR-
24 PORATION WHICH IS REGULARLY TRADED ON NA-
25 TIONAL OR REGIONAL EXCHANGE.—Clause (iii) of

1 paragraph (2)(E) shall not apply to stock in a for-
2 eign corporation the stock of which is listed on the
3 New York Stock Exchange, the American Stock Ex-
4 change, or any domestic regional exchange for which
5 quotations are published on a regular basis other
6 than—

7 “(A) stock of a foreign investment com-
8 pany (within the meaning of section 1246(b)),
9 and

10 “(B) stock in a foreign corporation held by
11 a United States person who meets the require-
12 ments of section 1248(a)(2).

13 “(c) INDEXED BASIS.—For purposes of this sec-
14 tion—

15 “(1) INDEXED BASIS.—The indexed basis for
16 any asset is—

17 “(A) the adjusted basis of the asset, multi-
18 plied by

19 “(B) the applicable inflation ratio.

20 “(2) APPLICABLE INFLATION RATIO.—The ap-
21 plicable inflation ratio for any asset is the percent-
22 age arrived at by dividing—

23 “(A) the gross national product deflator
24 for the calendar quarter in which the disposi-
25 tion takes place, by

1 “(B) the gross national product deflator
2 for the calendar quarter in which the asset was
3 acquired by the taxpayer (or, if later, the cal-
4 endar quarter ending December 31, 1992).

5 The applicable inflation ratio shall not be taken into
6 account unless it is greater than 1. The applicable
7 inflation ratio for any asset shall be rounded to the
8 nearest one-tenth of 1 percent.

9 “(3) GROSS NATIONAL PRODUCT DEFLATOR.—
10 The gross national product deflator for any calendar
11 quarter is the implicit price deflator for the gross
12 national product for such quarter (as shown in the
13 first revision thereof).

14 “(4) SECRETARY TO PUBLISH TABLES.—The
15 Secretary shall publish tables specifying the applica-
16 ble inflation ratios for each calendar quarter.

17 “(d) SPECIAL RULES.—For purposes of this sec-
18 tion—

19 “(1) TREATMENT AS SEPARATE ASSET.—In the
20 case of any asset, the following shall be treated as
21 a separate asset:

22 “(A) a substantial improvement to prop-
23 erty,

24 “(B) in the case of stock of a corporation,
25 a substantial contribution to capital, and

1 “(C) any other portion of an asset to the
2 extent that separate treatment of such portion
3 is appropriate to carry out the purposes of this
4 section.

5 “(2) ASSETS WHICH ARE NOT INDEXED ASSETS
6 THROUGHOUT HOLDING PERIOD.—

7 “(A) IN GENERAL.—The applicable infla-
8 tion ratio shall be appropriately reduced for cal-
9 endar months at any time during which the
10 asset was not an indexed asset.

11 “(B) CERTAIN SHORT SALES.—For pur-
12 poses of applying subparagraph (A), an asset
13 shall be treated as not an indexed asset for any
14 short sale period during which the taxpayer or
15 the taxpayer’s spouse sells short property sub-
16 stantially identical to the asset. For purposes of
17 the preceding sentence, the short sale period be-
18 gins on the day after the substantially identical
19 property is sold and ends on the closing date
20 for the sale.

21 “(3) TREATMENT OF CERTAIN DISTRIBUTU-
22 TIONS.—A distribution with respect to stock in a
23 corporation which is not a dividend shall be treated
24 as a disposition.

1 “(4) SECTION CANNOT INCREASE ORDINARY
2 LOSS.—To the extent that (but for this paragraph)
3 this section would create or increase a net ordinary
4 loss to which section 1231(a)(2) applies or an ordi-
5 nary loss to which any other provision of this title
6 applies, such provision shall not apply. The taxpayer
7 shall be treated as having a long-term capital loss in
8 an amount equal to the amount of the ordinary loss
9 to which the preceding sentence applies.

10 “(5) ACQUISITION DATE WHERE THERE HAS
11 BEEN PRIOR APPLICATION OF SUBSECTION (a)(1)
12 WITH RESPECT TO THE TAXPAYER.—If there has
13 been a prior application of subsection (a)(1) to an
14 asset while such asset was held by the taxpayer, the
15 date of acquisition of such asset by the taxpayer
16 shall be treated as not earlier than the date of the
17 most recent such prior application.

18 “(6) COLLAPSIBLE CORPORATIONS.—The appli-
19 cation of section 341(a) (relating to collapsible cor-
20 porations) shall be determined without regard to this
21 section.

22 “(e) CERTAIN CONDUIT ENTITIES.—

23 “(1) REGULATED INVESTMENT COMPANIES;
24 REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST
25 FUNDS.—

1 “(A) IN GENERAL.—Stock in a qualified
2 investment entity shall be an indexed asset for
3 any calendar month in the same ratio as the
4 fair market value of the assets held by such en-
5 tity at the close of such month which are in-
6 dexed assets bears to the fair market value of
7 all assets of such entity at the close of such
8 month.

9 “(B) RATIO OF 90 PERCENT OR MORE.—If
10 the ratio for any calendar month determined
11 under subparagraph (A) would (but for this
12 subparagraph) be 90 percent or more, such
13 ratio for such month shall be 100 percent.

14 “(C) RATIO OF 10 PERCENT OR LESS.—If
15 the ratio for any calendar month determined
16 under subparagraph (A) would (but for this
17 subparagraph) be 10 percent or less, such ratio
18 for such month shall be zero.

19 “(D) VALUATION OF ASSETS IN CASE OF
20 REAL ESTATE INVESTMENT TRUSTS.—Nothing
21 in this paragraph shall require a real estate in-
22 vestment trust to value its assets more fre-
23 quently than once each 36 months (except
24 where such trust ceases to exist). The ratio
25 under subparagraph (A) for any calendar

1 month for which there is no valuation shall be
2 the trustee's good faith judgment as to such
3 valuation.

4 “(E) QUALIFIED INVESTMENT ENTITY.—
5 For purposes of this paragraph, the term
6 ‘qualified investment entity’ means—

7 “(i) a regulated investment company
8 (within the meaning of section 851),

9 “(ii) a real estate investment trust
10 (within the meaning of section 856), and

11 “(iii) a common trust fund (within the
12 meaning of section 584).

13 “(2) PARTNERSHIPS.—In the case of a partner-
14 ship, the adjustment made under subsection (a) at
15 the partnership level shall be passed through to the
16 partners.

17 “(3) SUBCHAPTER S CORPORATIONS.—In the
18 case of an electing small business corporation, the
19 adjustment under subsection (a) at the corporate
20 level shall be passed through to the shareholders.

21 “(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

22 “(1) IN GENERAL.—This section shall not apply
23 to any sale or other disposition of property between
24 related persons except to the extent that the basis

1 of such property in the hands of the transferee is a
2 substituted basis.

3 “(2) RELATED PERSONS DEFINED.—For pur-
4 poses of this section, the term ‘related persons’
5 means—

6 “(A) persons bearing a relationship set
7 forth in section 267(b), and

8 “(B) persons treated as single employer
9 under subsection (b) or (c) of section 414.

10 “(g) TRANSFERS TO INCREASE INDEXING ADJUST-
11 MENT OR DEPRECIATION ALLOWANCE.—If any person
12 transfers cash, debt, or any other property to another per-
13 son and the principal purpose of such transfer is—

14 “(1) to secure or increase an adjustment under
15 subsection (a), or

16 “(2) to increase (by reason of an adjustment
17 under subsection (a)) a deduction for depreciation,
18 depletion, or amortization,

19 the Secretary may disallow part or all of such adjustment
20 or increase.

21 “(h) DEFINITIONS.—For purposes of this section—

22 “(1) NET LEASE PROPERTY DEFINED.—The
23 term ‘net lease property’ means leased real property
24 where—

1 “(A) the term of the lease (taking into ac-
 2 count options to renew) was 50 percent or more
 3 of the useful life of the property, and

4 “(B) for the period of the lease, the sum
 5 of the deductions with respect to such property
 6 which are allowable to the lessor solely by rea-
 7 son of section 162 (other than rents and reim-
 8 bursed amounts with respect to such property)
 9 is 15 percent or less of the rental income pro-
 10 duced by such property.

11 “(2) STOCK INCLUDES INTEREST IN COMMON
 12 TRUST FUND.—The term ‘stock in a corporation’ in-
 13 cludes any interest in a common trust fund (as de-
 14 fined in section 584(a)).

15 “(i) REGULATIONS.—The Secretary shall prescribe
 16 such regulations as may be necessary or appropriate to
 17 carry out the purposes of this section.”

18 (b) CLERICAL AMENDMENT.—The table of sections
 19 for part II of subchapter O of such chapter 1 of such Code
 20 is amended by inserting after the item relating to section
 21 1021 the following new item:

“Sec. 1022. Indexing of certain assets for purposes of determin-
 ing gain or loss.”

22 (c) ADJUSTMENT TO APPLY FOR PURPOSES OF DE-
 23 TERMINING EARNINGS AND PROFITS.—Subsection (f) of
 24 section 312 of such Code (relating to effect on earnings

1 and profits of gain or loss and of receipt of tax-free dis-
2 tributions) is amended by adding at the end thereof the
3 following new paragraph:

4 “(3) EFFECT ON EARNINGS AND PROFITS OF
5 INDEXED BASIS.—

**“For substitution of indexed basis for adjusted
basis in the case of the disposition of certain assets
after December 31, 1992, see section 1022(a)(1).”.**

6 **SEC. 6. EFFECTIVE DATE.**

7 The amendments made by this Act shall apply to
8 sales and exchanges occurring after December 31, 1992,
9 in taxable years ending after such date.

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